

Congress of the United States

Washington, DC 20510

November 1, 2023

The Honorable Janet Yellen
Secretary
Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

The Honorable Danny Werfel
Commissioner
Internal Revenue Service
1111 Constitution Avenue NW
Washington, DC 20224

Dear Secretary Yellen and Commissioner Werfel:

We write to ask that you issue written guidance clarifying that rebate payments under state programs for PFAS remediation not be considered federal taxable income. This would be consistent with the federal tax treatment of similar special payments made by 21 states in 2022. We urge you to issue updated guidance to taxpayers recognizing that these payments should not be taxable.

The prevalence of per- and polyfluoroalkyl substances (PFAS) in much of southern New Hampshire's well water is the result of years of corporate mismanagement and negligence. These "forever chemicals" in the water supply pose a significant risk to the health and well-being of the community. To combat the harmful effects of these chemicals, the state of New Hampshire reached a settlement agreement with Saint-Gobain Plastics Corporation which included provisions to provide clean water to affected residents, as well as issue rebates through a first-of-its-kind PFAS Rebate Program to those not covered by the settlement agreement.

The rebate program, launched in July 2022, provided families with payments of up to \$5,000 for the installation of a PFAS treatment system or up to \$10,000 to connect to the public water system. According to the New Hampshire Department of Environmental Services, 500 rebates have been issued to people with PFAS-contaminated wells for these purposes. Ultimately, these rebates were issued to ensure residents' access to a basic human right – clean water.

As you are aware, a 1099 tax form is typically sent to individuals who received money from an entity other than their employer. In this case, the state sent 1099-G forms to those who received rebates, categorizing them as "state grants" that need to be reported to the Internal Revenue Service (IRS) and potentially on a tax return. Many residents were shocked to learn that the IRS considered the rebates – reimbursements for their out-of-pocket costs to address the contamination – federal taxable income. It's clear that the responsibility to address the lack of clarity about the taxability of these grants lies at the federal level.

Rebate recipients and advocates for clean drinking water have expressed confusion and alarm that these rebates may be subject to taxation. We are concerned that recipients could be prevented from accessing the full financial assistance offered by the rebates, ultimately hindering families' access to clean water. Furthermore, the state expects even more community members will utilize this program under the Environmental Protection Agency's updated national drinking water standards for PFAS. The current federal tax treatment of these rebates risks impacting future participants' financial ability to access clean drinking water.

The IRS has recently acted on behalf of taxpayers in similar situations. In February 2023, the agency told taxpayers who filed their federal income taxes early in this year's filing season and reported certain state 2022 tax refunds as taxable income to consider filing amended returns. This release referred to the

agency's existing guidance on [general welfare and disaster relief payments](#). The agency's own internal documentation states that: *"If a payment is made for the promotion of the general welfare or as a disaster relief payment, for example related to the outgoing pandemic, it may be excludable from income for federal tax purposes under the General Welfare Doctrine or as a Qualified Disaster Relief Payment."*

These PFAS rebate payments should be exempt under the agency's own existing guidance. No one spending their hard-earned money to ensure that their water is safe to drink should face an added tax burden from the federal government. While New Hampshire's program is the first of its kind, other states can and should follow in its footsteps. It's clear that federal tax law needs to be clarified permanently, which is why we support the [No Taxation on PFAS Remediation Act](#) to address this issue permanently by removing PFAS contamination reimbursements as taxable income regardless of the structure of future grants or reimbursements.

However, the quickest way to address this problem is for the IRS to act and immediately issue formal written guidance recognizing that these rebates are exempt from federal income tax under the General Welfare Doctrine. Taxpayers who included this payment on their returns and paid additional income tax as a result should be contacted by the agency and directed to file amended returns to ensure they receive their money back as soon as possible.

Thank you for your attention to this urgent matter. We look forward to your prompt response.

Sincerely,



Chris Pappas
Member of Congress



Daniel T. Kildee
Member of Congress